

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JOVELL CARTER,)	
)	
Petitioner,)	
)	
v.)	No. CIV-09-226-R
)	
WARDEN, FCI,)	
)	
Respondent.)	

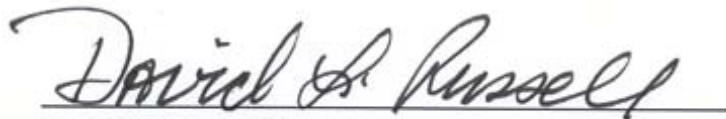
ORDER

Petitioner, appearing pro se, filed a petition seeking to compel the Department of Justice to grant him early release status pursuant to 18 U.S.C. § 3621(e) upon completion of the Residential Drug Abuse Program, which the Court construes as a petition filed pursuant to 28 U.S.C. § 2241, challenging the execution of his sentence.¹ Pursuant to 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Bana Roberts for initial proceedings. Judge Roberts accidentally characterized Petitioner's request as one for relief under 28 U.S.C. § 2254, and on March 7, 2009, Judge Roberts issued a Report and Recommendation, wherein she recommended that the petition be dismissed without prejudice in light of Petitioner's failure to pay the filing fee or to file the necessary papers seeking leave to proceed in forma pauperis. Although the petition should have been characterized as having been filed under § 2241, this is not relevant to the outcome of this action, in light of the requirement that a \$5.00 filing fee be paid for actions under § 2241 as well as those

¹ Pursuant to 18 U.S.C. § 3621(e)(2)(B), "[t]he period a prisoner convicted of a nonviolent offense remains in custody after successfully completing a treatment program may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve."

under § 2254. The record reflects that Petitioner has not objected to the Report and Recommendation, paid the filing fee or filed the necessary paperwork seeking leave to proceed without payment of fees. As such, the Report and Recommendation is hereby adopted, and this action is dismissed without prejudice.

IT IS SO ORDERED this 20th day of April 2009.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE